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HONOURABLE SRI JUSTICE B.PRAKASH RAO
AND
HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO:18546 of 2006

DATED: 13-09-2006

Between:

1. State of A.P., rep.by its Principal Secretary to Government, Revenue Department, Secretariat, Hyderabad, and 2 others

.....
PETITIONERS

AND

V.Venkateshwar Rao

.....RESPONDENT

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ORDER:(per Hon'ble Sri Justice Ramesh Ranganathan)

Aggrieved by the order of the Tribunal, in O.A.No.6065 of 2005 dated 24-10-2005, wherein the proceedings, dated 20-08-2002, issued by the third petitioner-District Collector, Karimnagar, was set aside and the petitioners were directed to

consider the case of the respondent-applicant for promotion as Special Grade Deputy Collector for the panel year 2004-2005 in view of his name being approved in G.O.Ms.No.252 dated 03-03-2005 and deferred in view of the pendency of the said proceedings which were issued by the authority which could have no jurisdiction, the present writ petition is filed.

The respondent-applicant was directly recruited in the year 1985 as a Deputy Tahsildar. He was thereafter promoted as a Tahsildar. He worked as the Mandal Revenue Officer, Ramagundam, from July 1998 to 1999. He was promoted as a Deputy Collector on 19-02-2002 and was posted as the Special Deputy Collector (L.A) SRSP, Hanmakonda. He was transferred on promotion to Warangal. Disciplinary enquiry was initiated against him under Rule 20 of the CCA Rules by the third petitioner/District Collector, Karimnagar, vide proceedings dated 20-08-2002. Questioning the initiation of disciplinary proceedings against him, by the District Collector, as without jurisdiction, the respondent-applicant filed the present O.A. before the Tribunal. It was contended on behalf of the petitioners herein, before the Tribunal that, since the charge relates to the year 1999 when the applicant was working as a Mandal Revenue Officer, the District Collector was the competent authority to issue the charge memo. The Tribunal rejected this contention holding that since the

respondent-applicant was working as a Special Deputy Collector, when the charge-memo was issued, both the appointing authority and the disciplinary authority was the Government. On the O.A. being allowed, and the impugned order being set aside, the present writ petition is filed.

Before us, the learned Government Pleader for Services-II, would fairly submit that the disciplinary authority for officers in the cadre of Special Deputy Collector is the Government and, for Mandal Revenue Officers, the Chief Commissioner for Land Revenue. In any event, the District Collector is not the competent authority. Learned Government Pleader would, however, submit that since the Government has now issued a charge memo, in G.O.R.T.No.1209 dated 25-05-2006 the defect, in issuing the charge sheet earlier by the District Collector, is now cured.

Since the District Collector, admittedly, does not have competence to initiate disciplinary proceedings against employees, either in the cadre of Mandal Revenue Officer or Deputy Collector, the very initiation of disciplinary proceedings suffers from inherent lack of jurisdiction. It is only on the Government issuing G.O.Ms.No.1209, dated 25-05-2006, can disciplinary proceedings be said to have been initiated against the respondent-applicant. Since the direction of the Tribunal is to consider his case for promotion, as a Special Grade Deputy Collector for the panel year

2004-2005, a period prior to the date of issuance of G.O.R.T.No.1209 dated 25-05-2006, we see no reason to interfere with the order of the Tribunal.

No statutory rules or executive instructions, which would enable the Government to defer consideration of the case, of a government servant, for promotion on the ground that the disciplinary proceedings are contemplated, are brought to our notice. Since, admittedly, no charge sheet was issued in the departmental proceedings, prior to consideration of the case, if employees for promotion to the posts of Special Grade Deputy Collector, by the Departmental Promotion Committee for the panel year 2004-2005, the order of the Tribunal in directing the petitioners herein to consider the case of the respondent-applicant for promotion is legal, valid and does not call for interference.

The Writ petition is accordingly dismissed. However, in the circumstances, without costs.

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B.PRAKASH RAO, J

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RAMESH RANGANATHAN, J

13th September, 2006

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